IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE
CIVIL APPLICATION NO.63 OF 2007
IN
CIVIL APPLICATION NO.169 OF 2006
IN
CIVIL APPLICATION NO.31 OF 2006
IN
CONTEMPT PETITION NO.176 OF 2005

Smt. Usha Harishchandra Mangeshkar ...Applicant.
v.
The Tilak Nagar Akshay Co-operative
Housing Society Ltd. & Ors. ...Respondents.

Mr.Nitin Mule i/by Balasaheb Deshmukh, advs. for the Applicant.

Mr.Nitin Nikam, adv. for the Respondents.

CORAM: J.H.BHATIA,J.
DATE: 18th January, 2008.

P.C.

1. To state in brief, the applicant has filed Contempt Petition No.176 of 2005 against the respondents for non-compliance of the order passed by the First Co-operative Court, which was to take action against the concerned erring members of the society. That order was passed on 18-11-2004. In the first round that contempt petition was dismissed and the civil application for restoration was filed. It was also dismissed. Thereafter, the second civil application was filed and the Court found that even though the reasons given by the applicant were not satisfactory, that application was allowed and in the result, contempt petition came to

be restored to the file.

2. This is the second round, the Contempt Petition No.176 of 2005 came to be dismissed again on 6-3-2006 as none was present. Thereafter, Civil Application No.31 of 2006 was taken out for setting aside the order of dismissal of the contempt petition. That application was dismissed on 28-3-2006 for non prosecution as none appeared. However, that application was restored on 19th April, 2006. This Court allowed that application subject to costs quantified at Rs.1,500/-. In that application on 4-5-06, adjournment was sought by the plaintiff/applicant. This Court had granted adjournment subject to the cost of Rs.1500/- and also directed to file vakalatnama of the new advocate failing which the application was to stand dismissed for non prosecution without further reference to Court. That order was not complied and in the result, said civil application no.31 of 2006 came to be dismissed.

3. Thereafter Civil Application No.169 of 2006 was taken out for restoration of Civil Application No.31 of 2006. However, Civil Application No.169 of 2007 also came to be dismissed in default. Then the present civil application is taken out for restoration of Civil Application No.169 of 2007. According to the applicant, she being 61 years old, she was unable to appear and her son was also not keeping well and, therefore, he had not

appeared when the applications had come up before the Court. If we look into the chequered history of number of applications, their dismissals and restoration, it appears that the applicant is not at all diligent in dealing with the matter. In fact, it is material to note that the impugned order was only direction to the society to take action against the erring members of the society. In fact, no personal relief was given to the applicant. That order itself is more than three years old.

4. Taking into consideration the circumstances noted above, I find that it is not a fit case to restore the Civil Application No.169 of 2006, which would again require consideration of earlier applications also.

5. In the result, Civil Application stands dismissed.

(J.H.BHATIA,J.)